



January 19, 2007

HOUSE BILL No. 1145

DIGEST OF HB 1145 (Updated January 18, 2007 12:57 pm - DI 75)

Citations Affected: IC 13-21; IC 36-9.

Synopsis: Sanitation. Provides that the board of sanitary commissioners in a second class city (other than a city in Lake County or LaPorte County) that establishes a department of sanitation may consist of not less than three or more than five members. Provides that solid waste board members may be compensated for attending meetings. (Under current law, only the members of a solid waste management advisory committee may be compensated for attending meetings.) Provides that the compensation for a board member or an advisory committee member may not exceed \$75 per meeting.

Effective: July 1, 2007.

Kersey

January 11, 2007, read first time and referred to Committee on Local Government.
January 18, 2007, amended, reported — Do Pass.

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HB 1145—LS 7477/DI 87+



January 19, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1145

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-21-3-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. Except as provided
3 in section 14.5 of this chapter, the powers of a district include the
4 following:

5 (1) The power to develop and implement a district solid waste
6 management plan under IC 13-21-5.

7 (2) The power to impose district fees on the final disposal of solid
8 waste within the district under IC 13-21-13.

9 (3) The power to receive and disburse money, if the primary
10 purpose of activities undertaken under this subdivision is to carry
11 out the provisions of this article.

12 (4) The power to sue and be sued.

13 (5) The power to plan, design, construct, finance, manage, own,
14 lease, operate, and maintain facilities for solid waste
15 management.

16 (6) The power to enter with any person into a contract or an
17 agreement that is necessary or incidental to the management of

HB 1145—LS 7477/DI 87+



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solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:

- (A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.
- (B) The managing or disposal of solid waste.
- (C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

- (A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and
- (B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

- (A) Regular budget and tax levy procedures.
- (B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

- (A) reduction, management, and disposal of solid waste; and
- (B) recovery of waste products from the solid waste stream;

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1 if the primary purpose of activities undertaken under this
 2 subdivision is to carry out the provisions of this article.

3 (17) The power to adopt resolutions that have the force of law.
 4 However, a resolution is not effective in a municipality unless the
 5 municipality adopts the language of the resolution by ordinance
 6 or resolution.

7 (18) The power to do the following:

8 (A) Implement a household hazardous waste and conditionally
 9 exempt small quantity generator (as described in 40 CFR
 10 261.5(a)) collection and disposal project.

11 (B) Apply for a household hazardous waste collection and
 12 disposal project grant under IC 13-20-20 and carry out all
 13 commitments contained in a grant application.

14 (C) Establish and maintain a program of self-insurance for a
 15 household hazardous waste and conditionally exempt small
 16 quantity generator (as described in 40 CFR 261.5(a))
 17 collection and disposal project, so that at the end of the
 18 district's fiscal year the unused and unencumbered balance of
 19 appropriated money reverts to the district's general fund only
 20 if the district's board specifically provides by resolution to
 21 discontinue the self-insurance fund.

22 (D) Apply for a household hazardous waste project grant as
 23 described in IC 13-20-22-2 and carry out all commitments
 24 contained in a grant application.

25 (19) The power to enter into an interlocal cooperation agreement
 26 under IC 36-1-7 to obtain:

- 27 (A) fiscal;
- 28 (B) administrative;
- 29 (C) managerial; or
- 30 (D) operational;

31 services from a county or municipality.

32 (20) The power to compensate **board members and** advisory
 33 committee members for attending meetings at a rate determined
 34 by the board. **However, compensation paid under this**
 35 **subdivision to a board member or an advisory committee**
 36 **member may not exceed seventy-five dollars (\$75) for each**
 37 **meeting.**

38 (21) The power to reimburse board and advisory committee
 39 members for travel and related expenses at a rate determined by
 40 the board.

41 (22) In a joint district, the power to pay a fee from district money
 42 to the counties in the district in which a final disposal facility is

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located.

(23) The power to make grants or loans of:

- (A) money;
- (B) property; or
- (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

- (A) equipping;
- (B) expanding;
- (C) modifying; or
- (D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

- (A) the reuse and recycling of mercury in:
 - (i) mercury commodities; and
 - (ii) mercury-added products; and
- (B) collection programs available to the public for:
 - (i) mercury commodities; and
 - (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

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SECTION 2. IC 36-9-25-3, AS AMENDED BY P.L.175-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A department of public sanitation is established as an executive department of the municipality. However, in the case of a district described in subsection (b)(2), the department is established as an executive department of each municipality in the district.

(b) The department is under the control of a board of sanitary commissioners, which is composed as follows:

(1) If the department is established under section 1(a) of this chapter, the board consists of not less than three (3) but not more than five (5) commissioners. All of the commissioners shall be appointed by the municipal executive, unless one (1) commissioner is the municipal engineer. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) may be of the same political party.

(2) Notwithstanding subdivision (1), if the department is established under section 1(a) of this chapter and the district contains at least one (1) city having a population of less than one hundred thousand (100,000) and at least one (1) town, the board consists of one (1) commissioner from each municipality in the district. The executive of each of those municipalities shall appoint one (1) commissioner. If after all appointments are made the board has fewer than five (5) commissioners, the executive of the municipality with the largest population shall appoint the number of additional commissioners needed to bring the total to five (5). Not more than three (3) of the commissioners may be of the same political party.

(3) If the department is established under section 1(b) of this chapter, the board ~~consists of three (3) commissioners. Two (2) commissioners shall be appointed by the city executive and one (1) commissioner is the city civil engineer.~~ **consists of not less than three (3) commissioners but not more than five (5) commissioners. One (1) commissioner is the city civil engineer. All other commissioners shall be appointed by the city executive. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political party.** However, if the department is located in a county having a population of:

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- 1 (A) more than one hundred five thousand (105,000) but less
 2 than one hundred ten thousand (110,000);
 3 (B) more than one hundred ten thousand (110,000) but less
 4 than one hundred fifteen thousand (115,000);
 5 (C) more than one hundred forty-eight thousand (148,000) but
 6 less than one hundred seventy thousand (170,000); or
 7 (D) more than one hundred thirty thousand (130,000) but less
 8 than one hundred forty-five thousand (145,000);
 9 and the city does not have a city civil engineer, ~~the third~~
 10 ~~commissioner shall also be appointed by the executive. The third~~
 11 ~~commissioner, however, one (1) of the commissioners~~ must be
 12 a licensed engineer, **appointed by the executive**, with at least
 13 five (5) years experience in civil or sanitary engineering. In
 14 addition, in such a city the commissioners may not hold another
 15 public office. Not more than two (2) of the commissioners may be
 16 of the same political party, **unless the board consists of five (5)**
 17 **commissioners, in which case not more than three (3) of the**
 18 **commissioners may be of the same political party.**
 19 (c) Before beginning the commissioner's duties, each commissioner
 20 shall take and subscribe the usual oath of office. The oath shall be
 21 endorsed upon the certificate of appointment and filed with the
 22 municipal clerk.
 23 (d) Each commissioner shall also execute a bond in the penal sum
 24 of five thousand dollars (\$5,000) payable to the state and conditioned
 25 upon the faithful performance of the commissioner's duties and the
 26 faithful accounting for all money and property that comes under the
 27 commissioner's control. The bond must be approved by the municipal
 28 executive.
 29 (e) The appointed commissioners are entitled to a salary of not less
 30 than three thousand six hundred dollars (\$3,600) a year during actual
 31 construction and not less than six hundred dollars (\$600) a year in
 32 other years.
 33 (f) Notwithstanding IC 36-1-8-10, whenever this section requires
 34 that the membership of the board of sanitary commissioners not exceed
 35 a stated number of members from the same political party, at the time
 36 of appointment the appointee must:
 37 (1) have voted in the two (2) most recent primary elections held
 38 by the party with which the appointee claims affiliation; or
 39 (2) if the appointee did not vote in the two (2) most recent
 40 primary elections or only voted in one (1) of those elections, be
 41 certified as a member of the party with which the appointee
 42 claims affiliation by that party's county chairman for the county

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1 in which the appointee resides.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1145, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. Except as provided in section 14.5 of this chapter, the powers of a district include the following:

- (1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
- (2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
- (3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.
- (4) The power to sue and be sued.
- (5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.
- (6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:
 - (A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.
 - (B) The managing or disposal of solid waste.
 - (C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

- (7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.
- (8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.
- (9) The power to sell or lease any facility or part of a facility to any person.
- (10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of

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solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to adopt resolutions that have the force of law. However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution.

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of

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appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

- (A) fiscal;
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services from a county or municipality.

(20) The power to compensate **board members and** advisory committee members for attending meetings at a rate determined by the board. **However, compensation paid under this subdivision to a board member or an advisory committee member may not exceed seventy-five dollars (\$75) for each meeting.**

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) In a joint district, the power to pay a fee from district money to the counties in the district in which a final disposal facility is located.

(23) The power to make grants or loans of:

- (A) money;
- (B) property; or
- (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

- (A) equipping;
- (B) expanding;
- (C) modifying; or
- (D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives

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contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further the district's solid waste management plan.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

(A) the reuse and recycling of mercury in:

- (i) mercury commodities; and
- (ii) mercury-added products; and

(B) collection programs available to the public for:

- (i) mercury commodities; and
- (ii) mercury-added products.

(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1145 as introduced.)

SMITH V, Chair

Committee Vote: yeas 10, nays 0.

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